THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.23823 OF 2005

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Dated: 09-11-2005

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Between

Universal Pesto Chem Industries (India) Private Limited, 6-3-713, 3rd Block, 2nd Floor, Amrutha Hills, Topaz Building, Punjagutta, Hyderabad rep by its General Manager T. Niranjan Reddy.

...PETITIONER

AND

The Commissioner and Director Agriculture, Andhra Pradesh, Gunfoundry, Hyderabad.

...RESPONDENT

ORDER:

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Petitioner-company questions the order of the Commissioner and Director, Agriculture dated 19.10.2005 made in proceedings No.PP.II(2)1692/2005 as illegal, arbitrary and contrary to the provisions of the Insecticides Act, 1968 (for short 'the Act') and the Insecticides Rules, 1971 (for short 'the Rules') on the ground that the show cause notice dated 05.10.2005 issued by the respondent calling upon the petitioner to show cause as to why Acetamiprid 20% SP Batch No.U.F.1 should not be prohibited from stocking/storing and selling in the entire State of Andhra Pradesh for a period of two months under Section 17(1) of the Act and in failing to submit an explanation within 15 days from the date of receipt of the notice action would be initiated, was received by the petitioner on 08.10.2005 and explanation dated 20.10.2005 was submitted on 21.10.2005 and even before the lapse of 15 days from the date of receipt of the said notice the impugned proceedings was passed on 19.10.2005.

It is clearly evident that even before the expiry of 15 days from the date of service of notice the impugned proceedings has been passed which is illegal and unsustainable.

Therefore, the proceedings of the Commissioner and Director, Agriculture dated 19.10.2005 is set aside directing him to consider the explanation of the petitioner dated 20.10.2005 and pass appropriate orders within two weeks from the date of receipt of a copy of this order in accordance with law. However, pending passing final orders again, the petitioner cannot be permitted to either stock/store or sell the Batch No.U.F.1 in the entire State of Andhra Pradesh as the analysis report dated 01.10.2005 goes to show that the percentage of branded sample is 20% whereas the said sample is analysed to 3.9% only.

The writ petition is accordingly disposed of with the above observations.

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V. ESWARAIAH, J

November 9, 2005

DSK